

U.S. Department of Justice

United States Attorney  
Southern District of New York

86 Chambers Street, 3<sup>rd</sup> floor  
New York, NY 10007

October 7, 2020

BY ECF

Honorable Katharine H. Parker  
United States Magistrate Judge  
United States District Court  
500 Pearl Street  
New York, New York 10007

Re: Diana C. Vidal o/b/o Chanel Vidal v. Saul  
20 Civ. 1004 (JPC) (KHP)

Dear Judge Parker:

The administrative record is due to be filed in the above-referenced Social Security case by October 13, 2020. We write respectfully to request that the time to file the record be adjourned for 60 days, until December 14, 2020. As explained in the enclosed declaration of Jebby Rasputnis, the Executive Director of the Social Security Administration's ("SSA's") Office of Appellate Operations, due to the pandemic, almost all SSA employees are teleworking, and although SSA has made progress in addressing the backlog of administrative records to be prepared, it still faces significant challenges. Because the record in this case is a paper record, it cannot be prepared remotely. SSA has advised us that its current ability to prepare paper record cases is limited, but it is attempting to locate and prepare the record in this case. Recognizing the multiple extensions of the time that have been granted to file the record, we have asked SSA to prioritize preparation of this record.

We have explained the reason for the delay to the plaintiff, who is proceeding *pro se*, but she has not agreed to the adjournment request, stating that she does not want any more delays in this case. Two prior adjournments were granted in this case.

**APPLICATION GRANTED: Defendant's deadline to the file administrative record is hereby extended to December 14, 2020. The Clerk of Court is requested to mail a copy of this endorsement Pro se Plaintiff.**

**APPLICATION GRANTED**

Hon. Katharine H. Parker, U.S.M.J.

10/08/2020

We appreciate the Court's consideration of this request.

Respectfully,

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Acting United States Attorney

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DECLARATION OF JEBBY RASPUTNIS  
OFFICE OF APPELLATE OPERATIONS  
SOCIAL SECURITY ADMINISTRATION

I, JEBBY RASPUTNIS, Executive Director of the Social Security Administration's Office of Appellate Operations (OAO), declare and state as follows:

- 1) My office is responsible for, among other things, preparing certified copies of administrative records (CARs) for Federal court review when claimants appeal the final decisions of the Commissioner of Social Security.
- 2) Beginning in mid-March, the Social Security Administration restricted physical access to our buildings because of the COVID-19 pandemic. In order to protect the health and safety of our employees and our community, we have kept our employees on maximum telework, only authorizing limited in-office work since that time. The OAO's office in Falls Church, Virginia – which is home to OAO's Division of Civil Actions – is included in this restriction. Prior to the pandemic, the Division of Civil Actions worked out of the Falls Church office, with the support of three (3) contracted transcription typing services, to complete CARs using a manual, paper, process.

RECENT PROGRESS IN PRODUCING CARs

- 3) After much work, we have redesigned our business processes to allow for a mostly virtual CAR preparation process. These new approaches required us to modify and test technology, retrain staff, and modify blanket purchasing agreements with the transcription typing services we rely on for transcripts of agency hearings. It has taken us some time and more than one try, but we now have a virtual process that has enabled us to ramp up our CAR production commensurate with the capacity of our transcription typing services. In August, we processed more than 1,100 cases and we expect to

continue increasing our productivity. We will soon surpass our pre-pandemic production rates of 300-400 per week - during the last week of August, we produced 396 CARs.

- 4) The effects of the COVID-19 pandemic also resulted in staffing and processing problems for our transcript typing service contractors. These contractors are a necessary part of the CAR preparation process because the agency does not have staff to produce hearing transcripts. The agency is supporting its existing contractors in hiring new staff by expediting their suitability investigations and credentialing. We are also seeking additional contracts.
- 5) We have recently finalized an additional contract such that we are now working with four contracted transcription typing services. We are also working to add another contract with a transcription typing service vendor in order to bring our total number of transcription contracts to five.
- 6) As we work internally to increase productivity, we are communicating information about our workload to important stakeholders. In July, we met with several representatives from the National Organization of Social Security Claimants' Representatives. On August 25<sup>th</sup>, I wrote to the Director of the Administrative Office of the United States Courts with information about the effect of our difficulties on the courts and to stress that agency leadership is mindful of the importance of judicial review to claimants and committed to increasing our CAR production.

#### CURRENT CHALLENGES

- 7) Backlog: Last year, we produced approximately 16,900 new CARs. This year, despite our pandemic-related production delays, we have already completed approximately 11,000, and we continue to increase our productivity. However, the number of new

complaints in the district courts has increased, and we are seeing receipts in excess of prior years. In fiscal 2019, district court complaints filed against the agency averaged 1,440 per month. As comparison, PACER<sup>1</sup> shows 2,435 new cases in July and 2,339 in August. The backlog of work that built up during the past six months is daunting. At the end of August, we had more than 8,000 new court cases waiting to be processed. We publish quarterly information on our workloads at [https://www.ssa.gov/appeals/DataSets/08\\_National\\_New\\_Court\\_Cases\\_and\\_Remands.html](https://www.ssa.gov/appeals/DataSets/08_National_New_Court_Cases_and_Remands.html).

- 8) Prioritizing Cases Using the New Process: Due to the multiple changes to our process, our staff had difficulty separating the oldest cases from the newer cases when transmitting audio files to the contracted transcription typing service. Although we now have an organizational system in place to ensure that cases are transmitted in age-order to our contract typing services, each contractor works at a different speed based on their individual staffing challenges. Rather than hold completed transcripts returned from the vendors to place them in age order, our staff processes transcripts as soon as they receive them so as not to further delay any CAR filings. As our organization system continues to improve the processing order, we expect that disparities between case filing dates and CAR completion dates will decrease. We continue to focus our efforts on processing the most aged cases.
- 9) Capacity of Contracted Transcription Typing Services: The pandemic affected the private companies with which we had contracted for transcription typing services. Although we have been working with the existing contractors to increase their capacity,

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<sup>1</sup>National search of district court new civil actions with nature of suit codes 862-865, performed 9/6/2020.

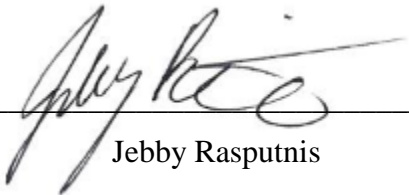
have effectuated a new contract, and are working to complete a fifth contract, our contractors have finite capacity to deliver hearing transcripts. Moreover, we cannot control the impact of the pandemic on their workforce.

10) At this time, the timeframe for delivering a CAR in any individual case has improved.

Although we remain subject to some constraints, we continue to work on increasing productivity to the best of our ability. We ask for continued patience as we work to add transcription capacity, increase our production of CARs, and address rising court case filings.

In accordance with 28 U.S.C. §1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Dated September 11, 2020



Jebby Rasputnis